

ATTACHMENT B

REMARKS

By the present Amendment, applicants have amended Claims 11 and 18, and Claims 12, 13, 16 and 19-21 have been cancelled without prejudice. Claims 11, 14-15, and 17-18 remain pending in the application. For reasons as set forth below, the present amendments placed this application in condition for allowance.

Response to claim rejections under 35 U.S.C. § 112 first paragraph

Claims 11-15 and 18-20 are rejected under 35 U.S.C. § 112 first paragraph as failing to comply with the enablement requirement.

This rejection, insofar as applied to the claims as amended, is respectfully traversed.

Claim 11 has been amended to specify the thermoplastic olefin polymer according to claim 13 (claim 13 has thus been canceled without prejudice) and also to specify the hardness of the extrudable material according to claim 12 (claim 12 has thus been canceled without prejudice).

Claim 18 has been amended to specify the thermoplastic polymer phase according to claim 19 (claim 19 has thus been canceled without prejudice) and also to specify the hardness according to claim 12.

The Examiner considers that the claims attempt to define the subject matter in terms of the result to achieve, by referring to a combination of two properties of the material which is claimed.

Applicants respectfully disagree.

In fact, the result to be achieved is not to obtain the claimed mechanical properties, (i.e. tensile strength and extension at breakage) but, to obtain a satisfactory compromise between various results which can be contradictory, as explained in the description from page 1 line 11 to page 2 line 28.

And, it is thanks to the selection of a material:

- including a specific thermoplastic phase and a specific amount of filler, and
- presenting specific mechanical properties (tensile strength, extension at breakage and Shore D hardness),

that said compromise can be obtained.

The mechanical properties given in claim 11 (or in claim 18) are thus technical features which are necessary in the definition of the extrudable material of the invention.

Thus, among materials containing a thermoplastic polymer phase according to claim 11 with 25-65% filler content, only those which further present the following mechanical properties:

- tensile strength: 6 MPa to 20 MPa
- extension at breakage: 50% to 300% and
- Shore D hardness: 35-55,

will allow to obtain the desired compromise.

Applicants thus submit that these rejections are respectfully traversed and should be withdrawn.

Response to claim rejections under 35 U.S.C. § 112 second paragraph

Claim 20 has been canceled. Accordingly, this objection has become moot.

Response to claim rejections under 35 U.S.C. § 102

Claims 11,13-15 and 18-20 are rejected under 35 USC 102(b) as being anticipated by Breant (US 5,166,250), Skipper (GB2110696), Bartholomeus et al. (EP 054 424) or Anzini et al. (EP 204 453). These rejections, insofar as applied to the claims as amended, are respectfully traversed for the reasons that follow.

As indicated by the Examiner, Breant, Skipper, Bartholomeus and Anzini disclose extrudable material including a thermoplastic polymer phase containing at least one of the present olefin polymers comprised in the present range, said material having a tensile strength and an amount of extension at breakage ranging according to the invention.

However, there is no indication on the hardness of said materials.

Claims are thus novel in view of Breant (US 5,166,250), Skipper (GB2110696), Bartholomeus et al. (EP 054 424) or Anzini et al. (EP 204 453).

Response to claim rejections under 35 U.S.C. § 103

Claims 11,13-15 and 18-20 are rejected under 35 USC § 102(b) as being anticipated by, or in the alternative under 35 USC §103(a) as being unpatentable over Himes et al. (US4,216,131).

These rejections, insofar as applied to the claims as amended, are respectfully traversed for the reasons that follow.

The Examiner considers that "it is reasonable that the thermoplastic material of Himes et al. would possess the presently claimed properties since the compositional limitation of the present composition fall well within the composition defined in Himes et al. and the two materials are essentially the same as the claimed invention".

As explained above concerning the response to the rejection under 35 USC §112, the material is not defined only by the nature of its constituents but also by the fact that it complies with three mechanical properties.

Thus, among composition presenting the same constituents, only those which present also:

- tensile strength: 6 MPa to 20 MPa
- extension at breakage: 50% to 300% and
- Shore D hardness: 35-55,

will anticipate the present claims.

In fact, nothing in Himes et al. indicates that those mechanical properties are satisfied with. On the contrary, Himes et al. teaches away from the invention.

First of all, the composition according to Himes et al. is intended for applications completely different from extruding thin films into a tube surrounding a bundle of optical fibers. It is obvious for the man skilled in the art that said differences in the applications imply differences in the material mechanical properties.

Furthermore, this is confirmed by the fact that, the material according to Himes et al. is characterized by its Shore

A hardness, whereas the material according to the invention is characterized by its Shore D hardness.

For the man skilled in the art, it is known that Shore A hardness is used for "softer" materials whereas the Shore D hardness is used for "harder" ones.

Consequently, the materials according to Himes et al. does not anticipate nor suggest the claimed invention.

The subject matter of original Claims 11,13-15 and 18-20 is thus patentable in view of Himes et al.

Claim 12 is rejected under 35 USC 102(b) as being anticipated by, or in the alternative under 35 USC 103(a) as being unpatentable over Breant (US 5,166,250), Skipper (GB2110696), Bartholomeus et al. (EP 054 424) or Anzini et al. (EP 204 453). This rejection, insofar as applied to the claims as amended, are respectfully traversed for the reasons as follows.

As already indicated, there is no indication on the hardness of the materials described in the cited prior art documents.

The subject matter of the present invention is to provide a material usable to be extruded under thin films into a tube surrounding a bundle of optical fibers. As indicated at page 1 lines 19-20 the thickness of said films is about 0.1 mm.

As indicated in the specification at page 3 lines 13-18, a material presenting a Shore D hardness above 35, guarantees a satisfactory cylindrical shape and avoids "kinking" effect during bending for making connections.

In the prior art documents, nothing is mentioned or suggested about the importance of the Shore hardness for obtaining satisfactory cylindrical shape.

Furthermore, in none of the cited prior art documents, it is contemplated to extrude films as thin as those according to the invention (i.e. 0.1 mm thick).

The man of ordinary skill in the art could thus find no incitation in those documents to select among materials presenting specific composition, tensile strength and extension at breakage only those which present a Shore D hardness ranging 35-55.

The claimed invention is thus patentable over Breant, Skipper, Bartholomeus et al. or Anzini et al., and the Examiner's rejection on the basis of these references is respectfully traversed.

In view of the above, it is submitted that the application is now in proper form for allowance.

Favorable consideration and prompt allowance of the claims are therefore respectfully requested.

END OF REMARKS